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6 Scott Salyer, individually, and as Trustee
7 of the Scott Salyer Revocable Trust,

8 Plaintiff,

9 v.

10 Salyer American Fresh Food, et al.,

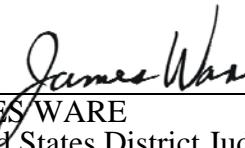
11 Defendants.

12 NO. C 05-03562 JW

13 **ORDER DENYING DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT
WITHOUT PREJUDICE**

14 _____ /
15 In light of the Court's October 24, 2006 Orders Granting Plaintiff's Motion for
16 Reconsideration and leave to file the First Amended Complaint (see Docket Item No. 138), and
17 Granting Plaintiff's Motion for Modification of the Scheduling Order (see Docket Item No. 139), the
18 Court DENIES Defendants' Motion for Summary Judgment without prejudice as premature. The
19 Defendants are invited to renotice and refile their motion upon completion of discovery and pursuant
20 to the parties' new case schedule.

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22 Dated: October 24, 2006

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JAMES WARE
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

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11 **Dated: October 24, 2006**

12 **Richard W. Wiking, Clerk**

13
14 **By: /s/ JW Chambers**
15 **Elizabeth Garcia**
16 **Courtroom Deputy**